IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.11.2007

CORAM

THE HONOURABLE MR. JUSTICE S.TAMILVANAN

A.S.No.617 of 1996
and
C.M.P.No.3038 of 1998
in
Cross Objection SR.16212 of 2007

The Special Tahsildar (LA),
Double Way Railway Scheme,
Tambaram, Madras 45. .. Appellant in Appeal 617/96 and Respondent in Cross Objection (Referring Officer)

Vs.

1.B.Radhakrishna Reddy (died)
2.R.Kasthuri
3.R.Ram Mohan
4.R.Krishnamurthy
5.R.Sukumar .. Respondents in Appeal 617/96 and Cross Objectors in Cross Objection/Claimants

(RR 2 to 5 have been brought on record
as legal representatives of the deceased
first respondent as per order of this Court
in C.M.P.Nos.9329 and 9330 of 1999
dated 17.09.2001).

Prayer: Appeal against the judgment and decree passed by the Subordinate Judge, Poonamallee in L.A.O.P.No.16 of 1989, dated 30.06.1995.

For Appellant in Appeal
and for the Respondent
in Cross Objection : Mr.V.Ravi,
Special Government Pleader

For Respondents in Appeal
and for the Cross Objectors
in Cross Objection : Mr.G.Kathirvelu

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

JUDGMENT

This appeal has been preferred by the Special Tahsildar (Land Acquisition), Double Way Railway Scheme, Tambaram, Chennai-45, against the judgment and decree dated 30.06.1995 made in L.A.O.P.No.16 of 1989, on the file of the learned Land Acquisition Tribunal/Sub-Court, Poonamallee.

2.It is not in dispute that the first respondent owned the property in question, house site measuring 11 cents in Survey No.50-B/4, situated in Irumbuliyur Village, Saidapet Taluk, which was acquired by the Special Tahsildar (Land Acquisition), Double Way Railway Scheme, Tambaram, Chennai-45 for the purpose of doubling the Railway Track between Tambaram and Chengalpattu. After the demise of the first respondent, his legal representatives have been impleaded as respondents 2 to 5. It is seen that notification under Section 4(1) of the Land Acquisition Act, was issued on 22.07.1987 as per award No.2/86-87 dated 22.09.1986 (A7.22143/82/LA). The Referring Officer had fixed the compensation at Rs.833/- per cent for the acquired land of 11 cents. Aggrieved by which, the first respondent herein had preferred reference under Section 18 of the Land Acquisition Act.

3.On the side of the respondents/claimants, C.W.1 was examined apart from marking Exs.A.1 to A.7. On the side of the appellant/Special Tahsildar, R.W.1 was examined apart from marking Exs.B.1 to B.3.

4.The Land Acquisition Tribunal considering the evidence both oral and documentary and also the arguments advanced by both the learned counsel, has held that the claimant was entitled to the compensation at the rate of Rs.5,000/- per cent. Aggrieved by which, the appellant/Special Tahsildar has preferred this appeal stating that the compensation awarded by the Tribunal is exorbitant.

5.On the other hand, the respondents/claimants have filed cross appeal for enhancement of compensation stating that the Tribunal has awarded inadequate compensation.

6.Mr.V.Ravi, learned Special Government Pleader (AS) appearing for the appellant would contend that the Land Acquisition Officer had awarded compensation based on Ex.B.2, the Sale deed dated 08.08.1986 whereby, one S.K.Ranga Rao sold his agricultural land to one Ms.Jyotsna Kalyanasundaram, but admittedly, it is an agricultural land. It is seen that the Land Acquisition Tribunal has considered all the sale deeds which were executed prior to the date of 4(1) notification and marked as exhibits on the side of the claimants as well as the respondent while fixing the compensation for the acquired land.

7.It is not in dispute that the acquired land is situated, very nearer to Tambaram, outskirts of Chennai City. Ex.A.1 is a sale deed dated 03.02.1988 executed by one G.Gopal in favour of one Nithyanandam at the rate of Rs.7,000/- per cent. As the sale deed being a subsequent document

WEB COPY
https://hcservices.ecourts.gov.in/hcservices/

to the date of 4(1) notification under the Act, the same was not considered by the Tribunal for fixing the value of the acquired land. Similarly, the sale deed marked as Ex.A.6, dated 20.07.1987 executed by one Vengai Ammal in favour of Parvathi at the rate of 2,396 per cent, was also not considered by the Tribunal. Since as per the sale deed, only a wet land of 5 cents had been conveyed and in the document, the same has been stated as Nanja land used for cultivation, and hence the Tribunal has considered Exs.A.3, A.4 and A.5 for fixing the market value of the acquired land. Under Ex.A3 Sale deed dated 10.07.1987, Plot No.92-B, Survey No.170, T.T.K.Nagar, Irumbuliyur Village, has been sold at the rate of Rs.5,633/- per cent and the total consideration of the said property is Rs.20,000/-. Ex.A.3, Sale deed has been executed by one Smt. Rajam and others in favour of one N.V. Baskaraj for Rs.20,000/-. Ex.A.4 sale deed dated 21.01.1987 has been executed by one V.Veerasamy in favour of K.Rukmani for Rs.30,000/- and the total extent therein is 2580 square feet and as per the said sale deed, the value of the property has been decided at Rs.5066/- per cent. Ex.A.5 sale deed dated 29.08.1986, has been executed by one Rajan in favour of Ambujam for a sale consideration of Rs.41,000/- and the total extent therein is 3276 square feet and accordingly, it has been valued at Rs.5,454.36 per cent. The aforesaid sale deeds are relating to house sites. It is not in dispute that the acquired land is also a similarly situated land. As it was a house site, considering the similarity and the potential value of the acquired land with reference to the aforesaid land, the Tribunal has fixed the market value at Rs.5,000/- per cent and accordingly, ordered to pay the compensation with solatium and interest, as per the provisions of the Land Acquisition Act.

8.Further, it is not in dispute that the acquired land is situated within the Tambaram Municipal limit and located 10 km away from the Madras Airport and favourably located within 2 k.m, nearby the Madras Christian College and nearly 4 k.m, away from an Engineering College and also abutting the Trunk Road. Ex.B.3, the topographical sketch which would show the location of the acquired land and the lands relating to date sale deeds. The potential value of the acquired land has been considered by the Tribunal based on the oral and documentary evidence.

9.On the facts and circumstances, this Court is of the considered view that the Land Acquisition Tribunal has properly considered the facts and circumstances, which deciding compensation to the respondents/claimants by referring the sale considerations relating to the sale deeds executed prior to the date of 4(1) notification. As per the topographical sketch it is seen that under the sale deeds, similarly placed lands have been sold prior to the date of 4(1) notification and therefore, I am of the view that the appeal deserves no merit consideration and hence, the same is liable to be dismissed.

10.In the Cross Appeal, though the respondents/claimants herein have claimed compensation at the rate of Rs.7,000/- per cent, there is no evidence available on record to decide the compensation at Rs.7,000/-per cent. The oral testimony of C.W.1 is not sufficient to hold that the

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

respondents/claimants are entitled to claim the compensation at the rate of Rs.7,000/- per cent and therefore, I am of the view that the Cross Appeal is also liable to be dismissed.

11.In the result, confirming the judgment and decree passed by the Land Acquisition Tribunal/Sub-Court, Poonamallee, both the appeal and the Cross Appeal are dismissed. Consequently, connected miscellaneous petition is also dismissed. However, there is no order as to costs.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

jrl

To

1. The Subordinate Judge,
Poonamallee.

2. The Record Keeper,
V.R.Section, High Court, Madras.

1 cc To Mr.G.Kathirvelu, Advocate, SR.68381.
1 cc To The Government Pleader, SR.68592.

A.S.No.617 of 1996

NG(CO)
RVL 10.01.2008

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/